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July 24, 2007

Gentry Trotter, President
Heat-Up St. Louis
1221 Locust St.
St. Louis, MO 63103

RE: Fiscal Monitoring Report of Heat-Up St. Louis Heat Assistance Program
(#2007-AHC2)

Dear Mr. Trotter:

Enclosed is a report of our fiscal monitoring review of Heat-Up St. Louis (Document #52740) for the period March 10, 2006 through September 30, 2006. The scope of a fiscal monitoring review is substantially less than an audit and, as such, we do not express an opinion on the financial operations of Heat-Up St. Louis. Our fieldwork was completed on April 9, 2007.

This review was made under authorization contained in Section 2, Article XV of the Charter, City of St. Louis, as revised and has been conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* and through an agreement with the Affordable Housing Commission to provide fiscal monitoring to all grant sub-recipients. If you have any questions, please contact Ishmael Ikpeama at (314) 589-6113.

Sincerely,

Sedrick Blake, CPA, MBA
Audit / Fiscal Executive

Enclosure

cc: Angela Morton Conley, Executive Director, Affordable Housing Commission



CITY OF ST. LOUIS

AFFORDABLE HOUSING COMMISSION

*HEAT-UP ST. LOUIS
HEAT ASSISTANCE PROGRAM
DOCUMENT #52740
CONTRACT #43-06G*

FISCAL MONITORING REVIEW

MARCH 10, 2006 THROUGH SEPTEMBER 30, 2006

PROJECT #2007-AHC2

DATE ISSUED: JULY 24, 2007

*Prepared by:
The Internal Audit Section*



OFFICE OF THE COMPTROLLER

HONORABLE DARLENE GREEN, COMPTROLLER

**CITY OF ST. LOUIS
AFFORDABLE HOUSING COMMISSION (AHC)
HEAT ASSISTANCE PROGRAM
HEAT-UP ST. LOUIS
DOCUMENT #52740
CONTRACT #43-06G
FISCAL MONITORING REVIEW
MARCH 10, 2006 THROUGH SEPTEMBER 30, 2006**

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INTRODUCTION

Background

Contract Name: Heat-Up St. Louis

Contract Number: 43-06G

Contract Period: March 10, 2006 through September 30, 2006

Contract Amount: \$250,000

This contract provided funds to the Agency for heating assistance to individuals or families residing in the City of St. Louis whose annual household income is 20% or below the Area Median Income (AMI) or not more than 175% of the federal poverty level established by the Department of Health and Human Services.

Purpose

The purpose of this fiscal monitoring review was to determine Heat-Up St. Louis' (Document #52740) compliance with local Affordable Housing Commission requirements for the period March 10, 2006 through September 30, 2006. We will make recommendations for improvements if necessary.

Scope and Methodology

We made inquiries regarding Heat-Up St. Louis' internal controls relating to the grant administered by the Affordable Housing Commission (AHC). We tested evidence supporting the reports the Agency submitted to AHC and performed other procedures considered necessary. Our fieldwork was completed on April 9, 2007. Management's responses were received on June 25, 2007, and have been incorporated into this report.

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CONCLUSION AND SUMMARY OF OBSERVATIONS**

Conclusion

Heat-Up St. Louis did not fully comply with AHC requirements.

Status of Prior Observations

This is the first fiscal monitoring review for Heat-Up St. Louis under this program. Therefore, the Agency does not have prior observations.

Summary of Current Observations

We made recommendations for the following observations which, if implemented, could assist Heat-Up St. Louis in complying with AHC requirements:

- There is an appearance of a conflict of interest.

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**DETAILED OBSERVATIONS, RECOMMENDATIONS,
AND MANAGEMENT'S RESPONSES**

There is an Appearance of a Conflict of Interest

AHC regulations and sound business practices prohibit any person who is an employee, agency, consultant, officer, elected official, and appointed official of the recipient or of any designated public agencies or sub-recipients from being a member of the Board of Directors of the grantee agency. The Agency has the President and CEO of the Urban League of Metropolitan St. Louis on its Board of Directors as a Vice-chair. The Urban League is a sub-recipient of funds from Heat-Up St. Louis.

The Chief of Staff of the City of St. Louis' Mayor's Office is also on the Agency's Board of Directors. As a member of both organizations (Awarding Agency and the Sub-recipient, or City Government and Sub-recipient), the Board Member is in a position to directly participate, provide information, and influence the decisions of monetary allocations to his own organization.

Recommendation

We recommend the Agency have the President and CEO of the Urban League of Metropolitan St. Louis and the Mayor's Chief of Staff resign from the Board of Directors, or seek a legal opinion from the City of St. Louis Counselor's Office.

Management's Response

In my opinion, there is not a conflict of interest.

First, Jeff is not an elected official; arguably, he might be a "decision-making public servant" under § 105.450(6), RSMo (attached), although even that is questionable.

Missouri statutes on conflicts of interest in government are in Ch. 105, RSMo. The only ones which pertain to political subdivisions and their officials and employees are 105.452, 105.454, and 105.458. ...

105.452 prohibits an official from doing something by way of his official capacity, "by reason of any payment, offer to pay, or receipt of anything of actual pecuniary value paid or payable, or received or receivable, to himself or any third person."

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105.454 prohibits an official from performing any service for the political subdivision for any compensation other than what is provided for his official duties, in excess of \$500; selling, renting or leasing any property to a political subdivision in excess of \$500 per transaction or \$5,000 total in a year; participating in any matter where the official attempts to influence any decision of a political subdivision, when the result of that decision may be performance of a service or selling, renting or leasing property to a political subdivision in excess of \$500 per transaction, or \$5,000 total in a year; perform any service for consideration other than his normal compensation, by which consideration he attempts to influence a decision of a political subdivision.

105.458 prohibits any "member of any legislative or governing body of any political subdivision" from performing any service for the political subdivision for any consideration other than his normal compensation; selling or renting or leasing any property to the political subdivision for more than \$500 per transaction or \$5,000 total in a year; or attempting, for any compensation other than the compensation he is normally paid, to influence a decision of the political subdivision. The prohibition also applies to any sole proprietorship, partnership, joint venture, or corporation in which the member holds 10% or more interest, from doing the same things.

It does not appear that Jeff's mere presence as an ex-officio member of this board contravenes any of these provisions.

The City also has its own conflict of interest provisions, Ch. 4.02 and 4.03 of the City Code (attached), which prohibit any official action for private gain, and requires the disclosure of any gifts received of value of \$250 or more.

Again, Jeff's presence as an ex-officio member of this board does not contravene any of these provisions.

In sum, the state and local authorities on conflicts of interest are concerned primarily with the use of one's office for private gain. In the absence of an alleged per se violation of that authority, common law allegations of a conflict of interest are theoretically possible, but exceedingly rare. See, e.g., Nodaway County v. Kidder, 129 S.W.2d 857 (Mo. 1939). Further support for the finding of no conflict of interest comes from Jeff's status as a non-voting board member.

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In an Attorney General opinion, it was opined that a student representative to a state university could simultaneously be paid for employment by said university because, though a student representative, he was not allowed to vote. ...

It is our understanding that James H. Buford, an honorary member of the board of directors, who does not vote is similar to Mr. Rainford. Mr. Buford does not vote, nor does any of his staff of the Urban League are in a decision making decision position with Heat-Up St. Louis, which gives them the ability to direct funds towards the agency. The Urban League receives funds from Heat-Up St. Louis based solely on its ability to deliver needy applicants and qualify them in a timely manner with our oversight and final sign-off. To further avoid any appearance of a conflict, as of June 15, 2007, Mr. Buford will no longer have an honorary board title in being associated with Heat-Up St. Louis. Mr. Buford's role is the representative of our 15 social service and community action agencies. He has no authority and receives no preferences, and has signed our agreement of conflict of interest policy. We now have someone to update our website, and the notations will be included, as well as on the upcoming 990/2006 version. ...

Auditor's Comment

Based upon the management's responses, IAS considers this observation as resolved.